

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

July 3, 2003

IN RE:

BELLSOUTH TELECOMMUNICATIONS, INC.'S
PETITION FOR EXPEDITED REVIEW OF CENTRAL
OFFICE CODE DENIAL BY THE NUMBER
POOLING ADMINISTRATION RELATING TO
MIDDLE TENNESSEE MEDICAL CENTER

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) DOCKET NO.
) 03-00290
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AMENDED ORDER APPROVING PETITION FOR
EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL
AND REVERSING CENTRAL OFFICE CODE DENIAL

This matter came before Chairman Sara Kyle, Director Pat Miller and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on May 12, 2003, for consideration of the *Petition for Expedited Review of Central Office Code Denial* filed by BellSouth Telecommunications, Inc. ("BellSouth") on April 24, 2003.¹ On June 12, 2003, the Authority issued an *Order Approving Petition for Expedited Review of Central Office Code Denial* ("Order"), which misstated the identities of the deliberating panel. Accordingly, this *Amended Order* hereby corrects that error and reflects the action of the voting panel assigned to this docket.

BACKGROUND

In March of 2000, the Federal Communications Commission ("FCC"), recognizing "the near-crisis" caused by the exhaustion of telephone numbers in certain

¹ BellSouth initially filed a Petition in this docket on April 17, 2003, but filed a corrected petition on April 24, 2003.

expanding geographic areas, initiated a policy designed “to slow down the rate at which central office codes (or NXXs) in those areas are assigned to carriers.”² Among other things, the FCC adopted a mandatory utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and provide incentives to use numbers efficiently.³ Under this policy, carriers seeking additional numbering resources must apply to the North American Numbering Plan Administration (“NANPA”) “or another entity or entities, as designated by the Commission” for a decision as to whether to allocate the numbers.⁴

On June 18, 2001, the FCC designated NeuStar, Inc. (“NeuStar”) as the national thousands-block number Pooling Administrator.⁵ NeuStar, which was also serving as the NANPA, currently administers thousands-block number pools by assigning, managing, forecasting, reporting, and processing data that will allow service providers in areas designated for thousands-block number pooling to receive telephone numbers in blocks of 1,000. On June 10, 2002, thousands-block number pooling was implemented in the Memphis Metropolitan Statistical Area, which is in the 901 NPA. Since then, telecommunications service providers participating in number pooling in that area are required to submit their requests for additional numbering resources to the Pooling Administrator.

² *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Report and Order and Further Notice of Proposed Rule Making*) 15 FCC Rcd. 7574, 2000 WL 339808, ¶¶ 2, 183, 191 (March 31, 2000) (hereinafter “*First Report and Order*”); see also 47 U.S.C. § 251(e)(1) (directing the FCC to “create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis.”).

³ See *id.* ¶¶ 40-41, 84, 97-98.

⁴ See 47 C.F.R. § 52.15(a); see also *First Report and Order*, ¶¶ 143-48 (providing background on the development of the pooling administrator).

⁵ *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Third Report and Order and Second Order on Reconsideration*) 17 FCC Rcd. 252, 2001 WL 1658101, ¶ 11 (Dec. 28, 2001) (hereinafter “*Third Report and Order*”); see also 47 C.F.R. § 52.15(a).

On March 19, 2002, BellSouth submitted an application to the Pooling Administrator to obtain numbering resources sufficient to satisfy the demands of its customer, *FRED'S*, for a growth code in the 901 NPA area code. *FRED'S* sought 2,000 numbers in the 901 area code, citing its plans to convert to a DID-capable PBX as its basis for the request. *FRED'S* maintains that having numbered resources within one telephone prefix will reduce customer and vender confusion. BellSouth applied to the Pooling Administrator because BellSouth did not have sufficient numbers within its inventory in the Memphis Rate Center to satisfy the request. The Pooling Administrator denied BellSouth's request on the ground that BellSouth had not met the rate center based months-to-exhaust criteria set forth in the Central Office Code Guidelines.

On April 24, 2003, BellSouth filed with the Authority its *Petition for Expedited Review of Central Office Code Denial*. BellSouth asserts that its inability to supply *FRED'S*, a large business customer, with the requested numbers within the same NXX code prevents BellSouth from providing the quality of service its customer expects. BellSouth further argues that providing the requested numbering resources would not materially impact the exhaustion of available numbers in the 901 area code. BellSouth requests that the Authority reverse the Pooling Administrator's denial of its application and order the release of numbering resources to meet *FRED'S* needs.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Review by the TRA of the Pooling Administrator's denial of BellSouth's application is authorized by the FCC.⁶ According to the FCC,

We agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources. State commissions should only apply a safety valve mechanism as a last

⁶ *Third Report and Order*, ¶ 61; see also 47 C.F.R. § 54.15(g)(3)(iv).

resort and, to the extent possible, use it as a stop gap measure to enable carriers in need of additional numbering resources to continue to serve their customers. We adopt one specific safety valve to address the numbering resource requirements of carriers experiencing rapid growth in a given rate area. We also clarify that states may grant requests by carriers that receive a specific customer request for numbering resources that exceeds their available inventory. Finally, we give states some flexibility to direct the NANPA or Pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of these specifically enumerated instances.⁷

State commissions conducting this review must act consistently with the FCC's policy of facilitating fair and efficient numbering administration in the United States and ensuring that numbering resources are available to all telecommunications service providers on a fair and equitable basis.⁸

At a regularly scheduled Authority Conference held on May 12, 2003, the voting panel assigned to this docket considered BellSouth's *Petition for Expedited Review of Central Office Code Denial*. During deliberations, the Directors were informed that BellSouth's request had been investigated and BellSouth did not have sufficient numbers under the same telephone number prefix to satisfy *FRED'S* request. After consideration of the record, the public interest and this agency's responsibility to foster competition in the telecommunications industry,⁹ the panel voted unanimously to approve BellSouth's request for expedited review and reverse the Pooling Administrator's denial of BellSouth's request for additional numbering resources, specifically for the assignment of

⁷ *Third Report and Order*, ¶ 61.

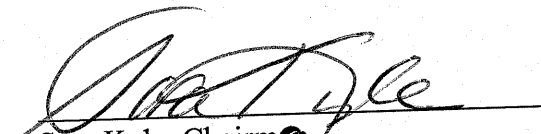
⁸ See, e.g., *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Order*) 16 F.C.C.R. 15,842, 2001 WL 964979, ¶ 8 (Aug. 24, 2001) ("[T]he state commissions, to the extent that they act under the authority delegated herein, must ensure that numbers are made available on an equitable basis; that numbering resources are made available on an efficient and timely basis; that whatever policies the state commissions institute with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers; and that the state commissions not unduly favor one telecommunications technology over another."); see *FCC Announces GSA Approval of North American Numbering Council Through October 4, 2003*, CC Docket No. 92-237 (*Public Notice*) 16 F.C.C.R. 18,502, 2001 WL 1222428 (Oct. 15, 2001).

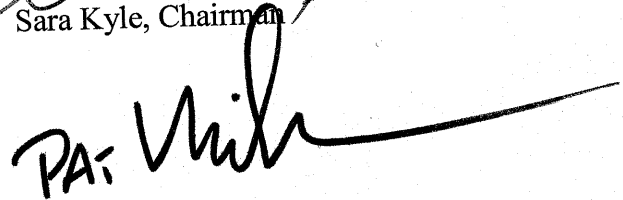
⁹ See Tenn. Code Ann. § 65-4-123.

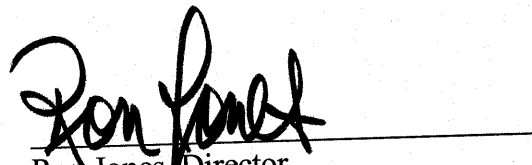
two one-thousand-blocks, 2 and 3, from the same NXX for the Memphis Oakville Central Office, Switch/POI designation MMPHTNOADS1.

IT IS THEREFORE ORDERED THAT:

1. The *Order Approving Petition for Expedited Review of Central Office Code Denial* issued in this docket on June 12, 2003 is hereby superceded.
2. The *Petition for Expedited Review of Central Office Code Denial* filed by BellSouth Telecommunications, Inc. is granted.
3. The Pooling Administrator's decision to deny BellSouth's request for additional numbering resources is reversed as stated herein.


Sara Kyle, Chairman


Pat Miller, Director


Ron Jones, Director